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| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|--------------------|-------------|-----------------------|------------------|
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08/737,111 10/25/96 ROREGER

M ~~OWNER~~ /LTS-8/9

WENDEROTH, LIND & PONACK
805 FIFTEENTH STREET NW
SUITE 700
SOUTHERN BLDG
WASHINGTON DC 20005

15M1/0626

| ART UNIT | PAPER NUMBER |
|------------|--------------|
| WEERMAN, E | 4 |

DATE MAILED:

06/26/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 2/20/97

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-15 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☒ Claim(s) 1-15 is/are rejected.
☐ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☒ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4
☐ Interview Summary, PTO-413
☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent A

SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Serial Number: 08/737,111

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Art Unit: 1502

Claims 4-15 are objected to under 37 C.F.R.

§ 1.75(c) as being in improper form because a multiple dependent claims 4-15. See M.P.E.P. § 608.01(n).

Accordingly, claims 4-15 have not been further treated on the merits.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-3 are rejected under 35 U.S.C. § 103 as being unpatentable over Luck et al. in view of Wallace et al.

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Luck et al. teach a matrix of protein and drug (Abstract). Delayed release with adjuvants is specified (column 4, lines 13-19). Collagen is specified (column 3, lines 24-27).

Wallace et al. teach an acid insoluble collagen powder which is chemically pure (column 11, line 17 - column 12, line 7).

It would have been obvious to use the collagen of Wallace et al. in the invention of Luck et al. to achieve the beneficial effect of chemically pure collagen, devoid of any impurities which could lead to an immune response.

As to the claimed mixtures of different molecular weights, Wallace et al. teach mixtures of collagen batches digested with trypsin at different lengths of time (column 12, lines 8-30). It is argued that such collagen batches will have different molecular weights in view of the differing digestion times.

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Claim 3 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3 'such as' is vague; the claim has no definite boundaries.

No claims allowed.

References lined through on PTO-1449 are not of record.

References not in English were considered only insofar as their description in the specification and/or the EPO search report of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Webman, whose telephone number is (703) 308-4432. The Examiner can normally be reached on Monday-Friday from 9:00 a.m. to 5:00 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, T. K. Page, can be reached on (703) 308-2927. The fax number for this Group is (703) 305-5408.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2351.

Edward J. Webman:cb
Patent Examiner

Tuesday, June 17, 1997
Tuesday, June 24, 1997



EDWARD J. WEBMAN
PRIMARY EXAMINER
GROUP 1500